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 RITE AID CORPORATION

**UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF CALIFORNIA**

RONALD J. ROBB,)	CASE NO. C 05-01932 CW
)	
Plaintiff,)	
v.)	ORDER GRANTING AS MODIFIED
)	STIPULATION TO CONTINUE CASE
RITE AID CORPORATION and DOES 1)	MANAGEMENT ORDER DATES [FRCP
through 20, inclusive,)	16(b)]
)	
)	
)	
<u>Defendants.</u>)	

The parties, through their respective counsel and pursuant to FRCP 16(b) and Local Rule 16-2(d), hereby stipulate and apply to the court to continue the case-dispositive motion, expert disclosure, and expert discovery cut-off dates established by the Court's Case Management Order of October 4, 2005.

Subject to the approval of the Court in the Order proposed below, the parties stipulate to continue the case-dispositive motion cut-off date from Friday, April 21, 2006 to and including Friday, August 18, 2006. The parties also stipulate to continuing the expert disclosure

STIPULATION AND [PROPOSED] ORDER
 TO CONTINUE CASE MANAGEMENT
 ORDER DATES

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1 cut-off date from June 23, 2006 to and including Friday, October 23, 2006, and the expert
2 discovery cut-off date from July 28, 2006 to and including Friday, November 24, 2006.

3 Without the extension of the dispositive motion cut-off date, the parties will be
4 effectively precluded from filing such motions and aiding the Court in the possible disposition of
5 this matter. The parties request the continuance of the expert disclosure and expert discovery cut-
6 off dates until after the dispositive motion cut-off date so as to avoid any potentially unnecessary
7 expert-related fees and costs. The parties do not request a continuance of the fact discovery cut-
8 off, pre-trial conference, or trial dates.

9 Good cause exists for the requested modifications. The parties did not anticipate
10 at the time of the Scheduling Conference that Plaintiff, a Washington state resident, would begin
11 new employment; this new employment has complicated the scheduling of his deposition and the
12 mediation. Also unanticipated was that the Court would set a dispositive motion cut-off date
13 before the close of fact discovery. At the time of the Case Management Conference, both parties
14 anticipated having until their agreed-upon discovery cut-off date (June 16) in which to complete
15 the out-of-state percipient witness depositions that they need to draft and oppose dispositive
16 motions. Moreover, when the parties met and conferred in September 2005 and agreed upon
17 certain case management dates, they had assumed trial would be set for or near the date of their
18 agreement, in September 2006; they did not know that the Court would be unavailable for trial
19 until February 2007. Finally, under the current Case Management Order, the parties would have
20 to file their dispositive motions before the April 3, 2006 mediation, which would significantly
21 undermine settlement negotiations.

22 No parties will be prejudiced by this continuance. All have agreed to it. This is
23 the first such request for a continuance and is timely made.

1 In summary, the parties stipulate to and request that the Court modify its Case
2 Management Order to read as follows:

- 3 1. Fact Discovery Cut-Off: June 16, 2006
- 4 2. Dispositive Motion Cut-off & FCMC **September 1, 2006**
- 5 3. Expert Witness Disclosures: October 20, 2006
- 6 4. Expert Witness Discovery Cut-Off: November 24, 2006
- 7 5. Pre-Trial Conference Date: January 26, 2007
- 8 6. Trial: February 5, 2007

9
10 IT IS SO STIPULATED.

11 Dated: March 8, 2006

KELLY, HERLIHY & KLEIN LLP

12
13 /s/ Annmarie M. Liermann
14 JONATHAN ALLAN KLEIN
15 ANNMARIE M. LIERMANN
Counsel for Defendant RITE AID CORPORATION

16 Dated: March 8, 2006

17
18 /s/ Jeffrey N. Daly
19 JEFFREY N. DALY
Counsel for Plaintiff RONALD J. ROBB

20
21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22
23
24 DATED: 3/13/06


JUDGE CLAUDIA WILKEN
Judge of the United States District Court,
Northern District of California

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28 STIPULATION AND [PROPOSED] ORDER
To CONTINUE CASE MANAGEMENT
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